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1— During February's Freeze in Texas, Refineries and Petrochemical Plants Released Almost 4 Million Pounds of Extra Pollutants, Inside Climate, 3/15/21

<https://insideclimatenews.org/news/15032021/texas-freeze-petrochemical-refineries-houston/>

The companies mounted their standard "affirmative defense," and environmentalists doubt Texas regulators will hold them accountable. Communities of color around Houston were disproportionately impacted.

2— Deb Haaland poised for confirmation tonight, E&E News, 3/15/21

<https://www.eenews.net/eedaily/2021/03/15/stories/1063727389>

Rep. Deb Haaland is on track to be confirmed tonight as the next secretary of the Interior. The Senate is scheduled to vote at 5:30 p.m. on the New Mexico Democrat's nomination, the culmination of an unexpectedly partisan and contentious confirmation process.

3— Panel to vote on PFAS, government oversight bills, E&E News, 3/15/21

<https://www.eenews.net/eedaily/2021/03/15/stories/1063727385>

The Senate Homeland Security and Governmental Affairs Committee will vote Wednesday on chemical, government oversight and cybersecurity bills. One proposal on the agenda is geared toward an area of mounting concern: firefighter exposure to "forever chemicals." PFAS, or per- and polyfluoroalkyl substances, have long been present in firefighting foam because of their nonstick properties, but those chemicals are linked to cancer and other major health impacts.

4— Angry Okla. farmers fight pipeline builder — and FERC, E&E News, 3/15/21

<https://www.eenews.net/energywire/2021/03/15/stories/1063727417>

Cody McComas says he still doesn't know why a pipeline crew with a dump truck stole \$40,000 worth of topsoil from his central Oklahoma farm. But he says it's only one of the indignities he's suffered at the hands of Cheniere Energy Inc. since it started laying the Midship pipeline through his property. He says he's lost two years of crops with no end in sight and tried in vain to get the company to fix the damage done to his land — and he hasn't been paid a dime.

5— Chaos reigns as 'great scramble' trails Texas blackouts, E&E News, 3/15/21

<https://www.eenews.net/energywire/2021/03/15/stories/1063727419>

Dysfunction is engulfing Texas' power sector after blackouts last month as two of the state's top elected officials square off over a massive pricing dispute, a major utility goes to court and a leading energy regulator seeks a return to normalcy. "I want to make sure we remember that this agency works best when it deliberates," Chairman Arthur D'Andrea of the Public Utility Commission of Texas said during a Friday meeting, citing the importance of filings to hear from all sides.

6— Looming crisis: Lawmakers sidestep groundwater concerns — for decades, WWNO, 3/12/21

<https://investigativereportingworkshop.org/investigation/looming-crisis/>

State Rep. Denise Marcelle was born and raised in Baton Rouge. Like many residents, she's always appreciated the crystal clear water here — drawn from deep in the Southern Hills Aquifer System. "We have some of the best water in the world," she said. But for years, Marcelle, who is a Democrat, has warned of a looming crisis in the aquifer. Energy companies and big industry are drawing vast amounts of water. And the withdrawals are allowing salt water to move in, threatening the main source of drinking water for a growing population of more than half a million.

7— The Top Three Energy Stories For 2021: Texas, California, And Oil, Forbes, 3/14/21

<https://www.forbes.com/sites/judeclemente/2021/03/14/the-top-three-vgienergy-stories-for-2021-texas-california-and-oil/?sh=785338c81769>

Texas - Let me start with the elephant in the room: the recent Texas energy crisis. To be sure, ALL energy sources had their problems. With natural gas accounting for 45-50% of the state's actual power generation, pipelines froze and Texas' gas production dropped 45% during the week.

Fossil Fuels

During February's Freeze in Texas, Refineries and Petrochemical Plants Released Almost 4 Million Pounds of Extra

Inside Climate News



The companies mounted their standard “affirmative defense,” and environmentalists doubt Texas regulators will hold them accountable. Communities of color around Houston were disproportionately impacted.

By Aman Azhar
March 15, 2021



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Ships are docked along refinery facilities at the Houston Ship Channel, part of the Port of Houston, on March 6, 2019 in Houston, Texas. Credit: Loren Elliot/AFP via Getty Images

For Vicki Cruz, a social worker who lives in the Magnolia Park section of Houston, her health situation couldn't have gotten a whole lot worse since she came down with Covid-19 over Christmas.

And then it did, when a hard freeze and snowstorm hit Texas last month and the state's oil refineries and petrochemical plants released almost 4 million pounds of extra pollution into the air, with nearly one-fifth of the load fouling the Houston region, according to estimates by the nonprofits Air Alliance Houston, Environment Texas and the Environmental Defense Fund.

The pollutants included human carcinogens like benzene and other toxic chemicals known to cause all sorts and health problems like asthma.

Cruz, 47, had a hard enough time breathing already.

"I wake up tired everyday with frequent headaches, and feeling nauseous," said Cruz, who lives a block and a half from a metal crushing plant and three miles from the nearest petrochemical plant along the Houston Ship Channel. "It's such an unfair situation to see some people taking advantage of the system."

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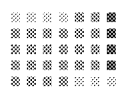
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She was referring to a system in which refineries and chemical plants routinely exceed their permit limits and emit excess pollution during extreme weather and are almost never sanctioned by the Texas Commission on Environmental Quality, environmental lawyers and activists said.

The TCEQ allows companies that emit excess pollutants to mount an “affirmative defense” and argue that the emissions were beyond their control because of events like last month’s freeze, or Hurricane Harvey in 2017. TCEQ says it “carefully considers the facts” in deciding whether excess emissions were unavoidable.

According to the Environment Texas 2020 report on illegal air pollution in Texas, TCEQ has penalized companies for less than 3 percent of the illegal emissions events since 2011. Even when they are penalized, they pay about a penny per pound of illegal air pollution.

“This is a recurring problem,” said Elena Craft, senior director for climate and health at the Environmental Defense Fund. “During the largest emissions events involving extreme weather, we see the least monitoring... This extra air pollution is an additional threat to people’s health and safety at a time when they are their most vulnerable.”

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coronavirus death rates or more severe outbreaks. Some studies were able to trace the higher mortality specifically to fossil fuel pollution.

Death rates for Covid-19 are two times higher for Black and Hispanic people compared to whites in the United States, and rates of hospitalization are three times higher, according to the Centers for Disease Control.

“Corporations repeatedly engage in behaviors that put the most vulnerable communities in harm’s way, and the state rarely holds them accountable, choosing to protect profits over people,” said Bakeyah Nelson, executive director of Air Alliance Houston. “This is untenable, especially for communities of color and working-class neighborhoods.”

Gov. Abbott Suspended Environmental Rules Before the Freeze

Under TCEQ rules, oil and gas facilities are required to submit an initial report of such emission events during maintenance and shutdown within 24 hours, and a final report in 14 days. The initial estimates can go through changes as the facilities submit updated emissions data towards the close of the 14-day period.

In their initial submissions to the TCEQ, companies cited power outages, system failures and shut downs, among other reasons, for the releases of extra pollutants during the snowstorm. During power outages, safety procedures often call for venting or burning gases in tanks or pipes, through a process called flaring, to reduce pressure and prevent explosions and fires.

Texas Gov. Greg Abbott suspended several environmental rules ahead of February’s freezing weather that caused massive power outages across the state power equipment and pipelines freeze. The move came at TCEQ’s request because those rules, the agency said, “may prevent, hinder, or delay necessary actions needed to respond to the severe winter weather event.”

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industrial pollution from petrochemical facilities.

TCEQ also reported 39 of its air quality monitoring sites suffered power failures or communications problems, including 14 in the Houston area, during the winter freeze. A week after the power outages began, TCEQ conducted some mobile monitoring in Corpus Christi, Houston and the Beaumont-Port Arthur areas.

According to the latest figures analyzed by Air Alliance Houston, the extra emissions for Harris, Galveston, Brazoria and Chambers Counties totaled 383,000 pounds and were about 52% greater than initially estimated. That puts emissions totals over a million pounds for Harris, Galveston and Brazoria Counties alone.

About 18 of the emissions event reports are yet to be finalized. Corey Williams, policy and research director with Air Alliance Houston, says it is very likely that the statewide emissions would be higher than initial estimates once all the reports are in.

Some individual plants are capable of sizable excess emission. A petrochemical facility operated by Performance Materials NA Inc. near Beaumont, for example, reported releasing a massive 262,522 pounds of methane into the air in less than two hours on Feb. 16, citing weather conditions. The company did not respond to questions about the extra emissions from their facilities and health impacts related to them.

Around the same time, the ExxonMobil Olefins plant in Baytown, Houston, released excess emissions totaling 131,719 pounds that an analyst at Air Alliance Houston said included carbon monoxide, nitrogen oxides and a mix of hydrocarbons. The emissions were nearly 3.5 times greater than releases from the unit during Hurricane Harvey.

Asked for comment on the excess emissions, Jeremy Elkenberry, an Exxon media relations advisor, said in a statement: "As a result of the freezing weather conditions, coupled with the curtailment of natural gas supplies throughout the State of Texas, we safely ceased manufacturing and shut

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protects the safety and health of our personnel, customers and the public.”

‘I Wake Up Tired Every Day’

By the time Houston’s refineries and petrochemical plants began emitting hundreds of thousands of pounds of excess pollutants into the freezing air last month, Cruz still had not tested negative for Covid-19. She’d felt feverish since Christmas.

She wouldn’t test negative until March 2, meaning she was at greater risk for hospitalization during the February freeze as she trudged to her mother’s, or to her gym, to take a shower during the days when her power and water were out.

Cruz, the social worker in the Magnolia Park section of Houston’s heavily Latino East End, helps families and kids with urgent needs. Her grandparents were born in Mexico, and her parents in Texas. Her father was a machinist who worked for the Houston school district, and her mother worked in manufacturing.

She served in the Navy reserves from 1999 to 2004 as a Petty Officer Third Class.

Now divorced with three adult children, Cruz is president of the local chapter of the League of United Latin American Citizens, living sandwiched between the metal crushing facility and the Houston Ship Channel lined with petrochemical plants.

“It’s been six years I have been complaining about the noise and pollution from the metal crushing unit. I wake up tired everyday with frequent headaches, feeling nauseous,” Cruz said, adding she is still struggling with damage to her water pipes from the snowstorm. “I had to go look for the parts myself because plumbing services are stretched and price gouging is widespread right now.”

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And her health remains fragile. She suffers from a medical condition related to a bacteria known as H. pylori, which causes stomach inflammation, ulcers and a wide range of other diseases, including certain cancers.

“I have to eat well and stay mindful of my condition. But air pollution and now Covid makes it much more difficult for me to manage myself,” she said. “And nobody does anything about it. We can only complain, but nothing gets done.”

Almost 200 Companies Released Extra Pollution During the Freeze

The analysis of the excess emissions during the deep freeze by Air Alliance Houston, Environment Texas and the Environmental Defense Fund (EDF) shows that almost 200 facilities in 54 Texas counties reported extra releases of toxic chemicals between Feb. 11 and 22 that included benzene, carbon monoxide and Sulphur dioxide.

The extra pollution in the Houston region, the analysts indicated, came

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“We have not seen TCEQ take any enforcement action for the extra pollution released during extreme weather events, including Hurricane Harvey,” said Craft, of EDF. “Every day, dangerous air pollution is illegally released in Texas. This happens because it can cost corporations less to be caught polluting than continuing to pollute.”

Ilan Levin, an attorney with the Environmental Integrity Project, said it is highly unlikely that the TCEQ will penalize companies for releasing extra pollution during events like the snowstorm.

“Their releases happen on a daily basis in Texas when there are no storms,” he said. “But the state regulators rarely impose penalties on companies even when there are no extreme events. It’s a conservative state and its policies are tilted in favor of industry.”

Levin said that the Environment Protection Agency (EPA) shifted many of its regulatory responsibilities to the state under the Trump administration.

“The ‘Affirmative Defense’ argument in Texas and some other states allows the companies to argue the emissions were beyond their control such as during the freeze,” Levin said, “And then it’s the state’s discretion whether to accept that excuse. And in most cases the regulators don’t dispute these claims.”

Greg Rasp, a TCEQ media specialist, explained the process: “TCEQ reviews these events against criteria located in the Texas Administrative Code (TAC) to determine if the event was avoidable and assesses whether or not operators took measures to minimize emissions. Based on the results of an investigation of a reportable incident the TCEQ may pursue enforcement actions when appropriate against regulated entities which may include the assessment of a penalty.”

Whenever a company cites the “affirmative defense,” Rasp said, its argument “is evaluated on a case-by-case basis by reviewing each incident that is reported. Once a report is received, investigators first determine

Rasp said that excess emissions that occur for reasons other than an unavoidable excursion are not eligible for the affirmative defense and are considered for enforcement action. "TCEQ carefully considers the facts of incidents of excess emissions when responding to citizen inquiries and complaints, and in evaluating events that are reported," he said.

Craft remained highly skeptical, saying the agency needs to do much more "because these events can release six month's worth of extra air pollution in a few days, like after Hurricane Harvey."

Nelson, of Air Alliance Houston, said neighborhoods like Magnolia Park, where Cruz lives, have suffered grievously.

"These communities are unable to fully recover before the next man-made disaster due to a long history of environmental racism that has put them at greater risk of suffering the adverse impacts from disasters and with fewer resources to rebuild their lives," she said. "For too long, Texas decision-makers have treated them as expendable while giving fossil fuel corporations everything they want."

Once the Flaring Starts, People in Pasadena Talk of Being Unwell

From her home in Pasadena, about 13 miles from the oil company skyscrapers in downtown Houston, Pat Gonzalez remembers seeing bright towering flames and plumes of flared gas being released from nearby refineries during last month's freeze.

"There was a lot of flaring when these facilities shut down during the storm and then came back online," said Gonzalez, 54. "It burns a lot of fuel and the winds carried the toxic fumes into Pasadena. Once the flaring starts, people complain about being unwell, having difficulty breathing and often feel headaches and nausea."

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“South Pasadena is the rich, uppity town where they light up the Christmas tree and put up decorations. We get nothing of that sort on this side,” Gonzalez said.

A major voting rights case brought by the Justice Department against Pasadena’s predominantly white City Council ended in 2017. A federal judge in Houston ruled that a change in the city’s election system violated the Voting Rights Act by intentionally discriminating against Pasadena’s majority Latino population. The City Council ultimately settled the case, and Pasadena remains under Justice Department Supervision until 2023.

These days, Gonzalez, head of an environmental advocacy group called Caring for Pasadena Communities, has even more immediate concerns. Like breathing.

She suffers from asthma, headaches and nausea. She’s using her inhaler more and more. And ever since all that extra pollution was released during the deep freeze, she finds it hard to breathe outside.

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INTERIOR

Deb Haaland poised for confirmation tonight

Emma Durnain, E&E News reporter • Published: Monday, March 15, 2021



The Senate will vote today to confirm Rep. Deb Haaland (D-N.M.) to lead the Interior Department. Pool/SIPA USA/Newscom

Rep. Deb Haaland is on track to be confirmed tonight as the next secretary of the Interior.

The Senate is scheduled to vote at 5:30 p.m. on the New Mexico Democrat's nomination, the culmination of an unexpectedly partisan and contentious confirmation process.

Her ascent will usher in a new era at the agency: Haaland will be the first Native American Cabinet secretary and the first Indigenous person to oversee tribal nations after generations of abuse at the hands of the federal government.

Haaland will also represent a sea change from the two previous Interior secretaries who served during the Trump administration.

Former Secretary David Bernhardt, a longtime oil and gas lobbyist and industry board member, faced a barrage of questions about his conflicts of interest during his confirmation hearings and throughout his tenure.

Bernhardt's predecessor, Ryan Zinke, was similarly scrutinized for ties to a pipeline project, and during his term subjected to a federal probe on whether he conspired with the chairman of Halliburton Co. to greenlight a land deal in Zinke's hometown of Whitefish, Mont.

In contrast, Haaland's financial disclosure filed with the U.S. Office of Government Ethics showed only annual per capita payments of \$175 as an enrolled member of the Pueblo of Laguna tribe in New Mexico and an outstanding student loan ([Greenwire](#), Jan. 13).

"Under President Trump, the Department of Interior became one of the most scandal-ridden agencies in the federal government," Senate Majority Leader Chuck Schumer (D-N.Y.) said in a Senate floor speech last week.

"It gave oil and mining companies carte blanche to drill in wildlife preserves, rolled back environmental regulations and greatly undermined trust in the federal government in tribal lands," he said.

Haaland, Schumer said, "will move the department in a dramatically different direction."

Haaland did face plenty of questions about her past — in this case statements she made during her first term in Congress as the vice chair of the House Natural Resources Committee, where she carved out a progressive record that resulted in conservatives labeling her a "radical" and "extreme."

During her confirmation process, Republicans repeatedly challenged Haaland on whether she would seek to enact a far-left agenda as head of Interior, particularly given her past advocacy for the Green New Deal and keeping fossil fuels "in the ground."

Haaland insisted she'd be following the lead of President Biden, who has stopped short of endorsing both of these positions despite taking some aggressive early executive actions to curb oil and gas development on public lands.

She also was haunted by her pre-Congress, 2016 visit to the Standing Rock Sioux Tribe's reservation in solidarity with protesters against the Dakota Access pipeline — a sign, Republicans have said, of her militant anti-pipeline position generally.

The results of tonight's vote will serve as a reflection of the strength of the mistrust Republicans have for Haaland. Leading up to the first procedural vote on her nomination, GOP Sens. Steve Daines of Montana and Cynthia Lummis of Wyoming placed "holds" to slow-walk the process ([E&E Daily](#), March 9).

When senators finally voted Thursday to invoke cloture, or close debate, the result was 54-42, with just four Republicans crossing party lines to join all Democrats in voting in favor: Sens. Lisa Murkowski and Dan Sullivan of Alaska, Susan Collins of Maine, and Lindsey Graham of South Carolina ([E&E News PM](#), March 11).

Murkowski and Collins have already committed to voting to confirm Haaland. Graham has given no indication of whether his vote Thursday will mirror his vote today, and Sullivan said he remained undecided as he evaluates information from an eleventh-hour meeting with the nominee.

The four GOP senators who were not present for the cloture vote last week — Sens. Bill Cassidy and John Kennedy of Louisiana, Richard Burr of North Carolina, and Jerry Moran of Kansas — have all indicated they plan to oppose Haaland ([E&E Daily](#), March 11).

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FEDERAL AGENCIES

Panel to vote on PFAS, government oversight bills

Kelsey Brugger and E.A. Crunden, E&E News reporters

Published: Monday, March 15, 2021

The Senate Homeland Security and Governmental Affairs Committee will vote Wednesday on chemical, government oversight and cybersecurity bills.

One proposal on the agenda is geared toward an area of mounting concern: firefighter exposure to "forever chemicals."

PFAS, or per- and polyfluoroalkyl substances, have long been present in firefighting foam because of their nonstick properties, but those chemicals are linked to cancer and other major health impacts.

The "Protecting Firefighters from Adverse Substances (PFAS) Act," **S. 231**, which was reintroduced in February, would direct the Federal Emergency Management Agency to develop resources aimed at minimizing firefighter exposure to PFAS.

FEMA would work in consultation with EPA, the U.S. Fire Administration, and the National Institute for Occupational Safety and Health on the issue. The bill, which has bipartisan support, passed the Senate last Congress.

Other bills

The "National Cybersecurity Preparedness Consortium Act" would require the government to consult with nonprofits and developers to boost cybersecurity capabilities for national security reasons.

The bill, from Sen. John Cornyn (R-Texas), would also ask the Government Accountability Office to publish a report assessing the data.

The "Congressional Budget Justification Transparency Act of 2021," S. 272, would require agencies to publish "easily understandable justifications for their budget requests on a single, central website each year."

The bill, from Chairman Gary Peters (D-Mich.) and ranking member Rob Portman (R-Ohio), would also require the White House Office of Management and Budget to keep track of all agency budget materials.

"Ohioans and all Americans should be able to easily evaluate how the federal government is spending their hard-earned tax dollars," Portman said in a statement.

Also up for markup are:

- The "Federal Agency Customer Experience Act," from Sen. Maggie Hassan (D-N.H.), to require agencies to gather feedback about their services and publish the information online.
- S. 636, the "Billion Dollar Boondoggle Act," from Sen. Joni Ernst (R-Iowa), would require agencies to better report spending and details around major programs.


Schedule: The markup is Wednesday, March 17, at 9:30 a.m. in 342 Dirksen and via [webcast](#).

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THE TRANSFORMATION OF THE ENERGY SECTOR

NATURAL GAS

Angry Okla. farmers fight pipeline builder — and FERC

Mike Soraghan, E&E News reporter • Published: Monday, March 15, 2021



Nearly a year after Cheniere Energy Inc.'s Midship pipeline was completed in Oklahoma, crews are still trying to restore the land above the pipeline. In this drone photo, a crew is using heavy equipment on the pipeline easement on the farm of the Barrington family near Bradley, Okla. Central Land Consulting.

Cody McComas says he still doesn't know why a pipeline crew with a dump truck stole \$40,000 worth of topsoil from his central Oklahoma farm.

But he says it's only one of the indignities he's suffered at the hands of Cheniere Energy Inc. since it started laying the Midship pipeline through his property. He says he's lost two years of crops with no end in sight and tried in vain to get the company to fix the damage done to his land — and he hasn't been paid a dime.

"This is what we do for a living. We're proud of this land," said McComas, who grows alfalfa and corn near Minco, Okla. "They laugh about it, like it's no big deal."

McComas is not alone. Dozens of other Oklahoma landowners say Cheniere and its construction contractor cut a swath of destruction through their farms and still haven't repaired the damage a year after the company started pumping natural gas. They say their fields are flooded, vital topsoil is gone and chunks of construction debris are strewn across the pipeline's 200-mile path.

The conflict has turned Cheniere's Midship project into one of the most bitter battles in the country's pipeline debate, with lawsuits, threats of violence, accusations of extortion and even sabotage.

It's a prime example, critics say, of the Federal Energy Regulatory Commission's bureaucratic indifference to the people in the path of the energy projects it approves.

"We've tried to get FERC in to enforce something," McComas said. "It's been a lost cause."

But now FERC's new Democratic chairman, Richard Glick, may be putting pressure on Cheniere to resolve its problems with the Midship landowners. The landowners earlier this month asked FERC to intervene in the dispute, and the full commission is scheduled to discuss the situation at its monthly meeting Thursday. The landowners are hoping extra pressure will get Cheniere to settle more quickly.

But Cheniere says it has already been doing the best it can while dealing with weather problems and difficult landowners who put up obstacles to finishing repairs.

The company says it is devoted to "safe, secure and reliable delivery of natural gas." But spokeswoman Jenna Palfrey declined to respond to the landowners' specific allegations.

"Midship's policy is to refrain from commenting on individual agreements, contracts or legal matters concerning its right-of-way landowners, shippers or contractors," Palfrey said.

FERC declined to comment, but agency officials told members of Congress last year they will make sure landowners' farms are fully restored.

"Point blank, that's it, they will be required to restore them," Terry Turpin, FERC's director of energy projects, told a congressional panel looking at how the agency regulates construction of the pipelines it approves ([Energywire](#), Dec. 10, 2020).

Cheniere and its construction crews have managed to enrage landowners in a state uniquely supportive of the oil and gas industry. McComas and his neighbors don't cite concerns about climate change or even object to having a pipeline on their land. Most already have many, and they're fine with that. As one farmer said, "Oklahoma is oil."

Instead, they cite needless destruction and say Cheniere's contractor, Strike Inc., is the worst they've ever seen. Mark Morris, a farmer and business owner from Bradley, Okla., said the company refused to negotiate, seized his land through eminent domain and then "butchered" it.

"Sometimes I think they'd never built a pipeline before," Morris said. "I'da loved to have worked out a deal with them. They condemn the property, and they just don't care."

Strike did not respond to requests for comment.

Cheniere has reported that the value of its investment in Midship has dropped by as much as \$216 million in the past two years. That's happened during the pandemic and the resulting economic crash, but Cheniere said another reason is cost overruns and construction delays. Private equity firm EIG Global Energy Partners also has a stake in Midship.

The landowners also have safety concerns about the 3-foot-wide pipe. Some say the path of the line makes sharp turns on their property that will prevent safety inspections by devices that run through the line, commonly called "pigs." The federal Pipeline and Hazardous Materials Safety Administration inspected the line during construction, but records indicate it hasn't been inspected by the agency since operations began.

Cheniere announced its plans for the Midship pipeline in 2016, with a goal of moving gas out of central Oklahoma, then a burgeoning hot spot for the gas production process often called "fracking." FERC approved it in August 2018, issuing a certificate stating it was "necessary and convenient" for the public interest.

Cheniere's primary business is taking natural gas produced in the U.S. and exporting it to other countries ([Energywire](#), May 30, 2019). Midship doesn't connect to either of Cheniere's terminals on the East Coast, but some of the gas is committed to Cheniere for export.

The company has been a standard-bearer for gas exports, which former President Trump made a key element of his "energy dominance" agenda. Carl Icahn, a Trump confidant who briefly served in the Trump White House as a special adviser, is a major shareholder.

The company has also hired several Obama administration alumni.

Opponents of other projects have questioned whether exporting natural gas actually serves the public interest. But that hasn't been an issue in the Cheniere fight ([Energywire](#), Oct. 7, 2020).

'Tantamount to extortion'

After FERC approves a pipeline route, the company building it can use eminent domain to take people's land for the project, long before paying them. Pipeline builders are supposed to negotiate first before going to court to condemn land. But farmers along the Midship line say Cheniere swiftly filed for condemnation after making lowball offers. The offers were sometimes less than the value of the crops they'd lose, they said, or fractions of what other companies had paid for burying other pipelines on their land.

The landowners eventually get their property back, with conditions about what can be done with it. But during construction, the pipeline controls the roughly 100-foot "right-of-way" easement where the pipeline is placed. Sometimes landowners aren't allowed to set foot on their own land during the process. McComas said crews repeatedly threatened to call the sheriff when he or his family members got close to the easement.

There are rules and conditions companies are supposed to follow during construction, but the landowners said FERC never did enough to enforce them.

When Midship construction started in spring 2019, farmers said they were cut off from their crop fields. Topsoil was scraped away and left to erode, stopping up creeks with sediment.

In early July 2019, with complaints pouring in, Turpin, FERC's director of energy projects, ordered construction on a 50-mile stretch of the project to shut down for a month.

FERC cited Midship's "renewed commitment" to compliance in its [letter](#) allowing construction to resume. The landowners say they didn't see any renewed commitment.

Many of those complaints, before and after the shutdown, were shepherded through the FERC process by Nate Laps and his Ohio-based company, Central Land Consulting. The former pipeline landman works for landowners in the path of pipelines, helping them navigate FERC's bureaucracy and get better compensation in eminent domain proceedings.

Laps has flooded FERC with formal complaints from the more than 100 landowners he represents along the pipeline's path, along with some who aren't his clients. To most of those filings, he has attached dozens of detailed photos of water sitting atop cropland, missing topsoil and construction debris.

Cheniere said Laps' tactics have thwarted its ability to resolve complaints with landowners. In a [letter](#) to FERC earlier this month, the company accused him of "strategically" exaggerating the damage done to his clients' land and using tactics "tantamount to extortion."

Laps didn't respond directly to the criticism, saying the company "has had issues since the beginning of construction and lacks remediation expertise."



Cody McComas says a crew took valuable topsoil from his family farm and submitted this photo to the Federal Energy Regulatory Commission to document it. McComas via FERC

Landowners along the Midship line also said Cheniere wouldn't listen to their concerns over where the pipeline was being built.

Steve Barrington, whose family runs a farming operation near Bradley, said he warned company representatives they were putting the line through a wet area on his land with a high-water table that would cause problems. But he was ignored and said his concerns were treated dismissively.

"They wouldn't talk to us," he said. "We're just a bunch of dumb redneck farmers."

Now he says it will cost more than \$5 million to fix the damage to his farm.

McComas said his father found the crew loading topsoil from the easement across his land early last year. He wrote to FERC twice last year to complain about the pipeline crew hauling off his topsoil but got no response. He claimed in a face-to-face meeting earlier this month that a Cheniere manager told him the company didn't take the topsoil.

But in a letter to Congress, FERC said one of its compliance managers documented that the soil was hauled off to level the ground properly.

McComas says the company never told him that, and the land wasn't leveled properly. It's eroding because of the missing topsoil.

In spring 2020, the pipeline was ready to start operations, which requires FERC approval. Laps and some of the landowners pleaded with FERC to delay the start of operations until the crews had done a lot more cleanup. The path of the pipeline was strewn with water and construction debris, they said, and once the pipeline was flowing with gas they'd lose any leverage they had to get it cleaned up.

FERC greenlighted Midship operations despite the concerns, saying in an April 2020 letter that "restoration is proceeding satisfactorily." Rich McGuire, director of FERC's Division of Gas — Environment and Engineering, stated in the letter that Midship was to remove construction debris and complete other restoration of the easement by mid-May 2020.

It didn't even come close to that.

Nearly a year after operations began, the company is still trying to fix the damage. Landowners say the pipeline path is still flooded, creek banks are still washed out and construction debris remains.

"They got the pipeline in and said it was finished," said Morris, the Bradley farmer. "I'm like, 'They've got trash all over my land.'"

Giant wooden mats, placed under heavy equipment, remain in fields where they were washed off during heavy rains, and some of the wood was simply thrown into the trenches cut for the pipeline.

Some of the wood has toxic chemicals, Morris said. When buried, it can catch blades and damage farm equipment. And when it decomposes, the land above sinks.

Morris said a pattern has developed. He complains about damage, and a crew comes out to fix it but leaves the job incomplete. When he complains, another crew again fails to fix it.

Outside of the brief shutdown in 2019, FERC has generally backed Cheniere, saying it has done an adequate job of fixing construction damage and responding to complaints.

After a confrontation last summer, the construction contractor, Strike, sued Barrington. The company accused the farmer of sabotaging his own irrigation lines near the path of the pipeline to flood the area, making it more difficult and expensive to finish restoration, in an attempt to "extort more money" from the companies.

"This is how stupid it's getting," Barrington scoffed in an interview, denying the allegations.

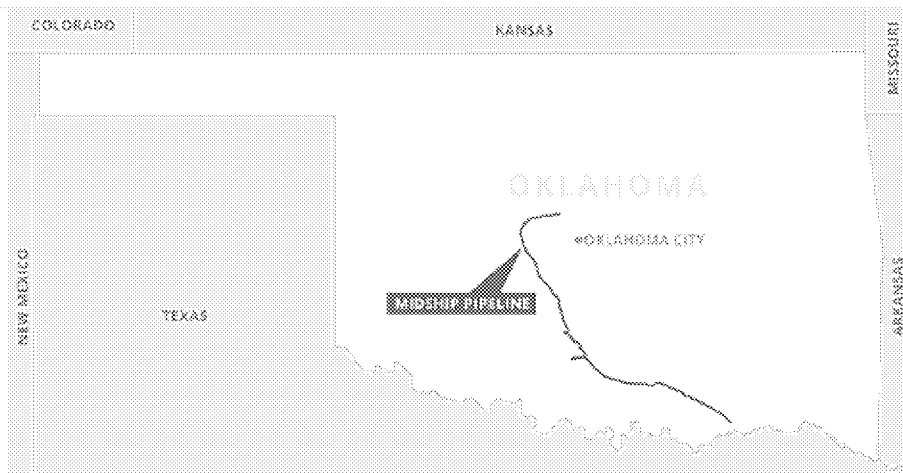
But Barrington doesn't deny getting into an altercation with a Strike employee and telling a deputy who came to investigate he "guessed he was going to have to start carrying a gun" and would "fill the next one that threatens me full of lead."

Barrington said he did so because of the Strike employee's threats, explaining, "A man just threatened to 'whup my ass.' On my own property."

A judge found insufficient evidence of sabotage but did fault Barrington for threatening the Strike employee.

FERC weighs in

McComas said he'd hoped a meeting with Cheniere officials earlier this month would lead to a settlement with the company. It didn't. He said it amounted to "a joke."



✚ The 200-mile Midship pipeline came into service last year with the capacity to move 1.1 billion cubic feet of natural gas per day. Claudine Helmuth/E&E News

It was part of two days of meetings Cheniere held in Oklahoma with McComas and six other property owners. In a filing with FERC, the company said its efforts to resolve complaints were met with "threats of violence" from some landowners and combative tactics from Laps and his company.

"This situation is not helping the environment or these landowners and has the potential to be dangerous to our personnel and contractors," wrote Karri Mahmoud, director of environmental and regulatory projects at Cheniere.

But Laps says the talks fell apart because of FERC and Cheniere. He said FERC officials had told landowners they wanted to help and would get involved with the talks. But at the last minute, Laps said, FERC withdrew at the request of Cheniere. FERC declined to comment on Laps' accusation.

FERC has long been criticized for indifference to the concerns of landowners in the path of projects it approves. FERC's mission is to ensure reliable energy, and critics say the agency is too eager to side with the companies providing that energy while ignoring the people they affect.

The highest-profile fights have been over whether a pipeline should have been built at all. But disputes have intensified about what happens during and after construction. In addition to Midship, landowners have complained about restoration failures on Spire Inc.'s STL pipeline near St. Louis and Energy Transfer Partners' Rover pipeline through Ohio and surrounding states ([Energywire](#), Sept. 23, 2019).

"Restoration issues are something that has fallen by the wayside," said Carolyn Elefant, a former FERC attorney who is now representing landowners fighting both Midship and Spire.

But pressure has been building amid criticism from the courts and Congress ([Energywire](#), March 4).

The conflict with the Midship landowners was a lead exhibit late last year when a House Oversight and Reform subcommittee held a hearing on FERC's oversight of pipeline construction. And FERC had to scramble to change policies after a federal appeals court judge deemed "Kafkaesque" the agency's standing policy of stiff-arming appeals from environmentalists and property owners ([Greenwire](#), June 30, 2020).

Glick, appointed FERC chairman by President Biden, has said he wants the agency to do a better job of heeding landowners' concerns. He's already alarmed the pipeline industry with a proposal to give more leverage to landowners and environmentalists in pipeline permitting fights. That wouldn't affect projects that are already complete.

The discussion this week at the FERC meeting could change that. It's not clear what the five commissioners will do when Midship comes up Thursday. But the landowners are hoping it will be a big step toward getting their land repaired and getting back to planting crops.

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THE TRANSFORMATION OF THE ENERGY SECTOR

ELECTRICITY

Chaos reigns as 'great scramble' trails Texas blackouts

Edward Klump, E&E News reporter

Published: Monday, March 15, 2021



Chairman Arthur D'Andrea (pictured) held a meeting Friday as the only current member of the Public Utility Commission of Texas. Two other PUC members resigned in recent weeks following widespread power outages in February. Public Utility Commission of Texas

Dysfunction is engulfing Texas' power sector after blackouts last month as two of the state's top elected officials square off over a massive pricing dispute, a major utility goes to court and a leading energy regulator seeks a return to normalcy.

"I want to make sure we remember that this agency works best when it deliberates," Chairman Arthur D'Andrea of the Public Utility Commission of Texas said during a Friday meeting, citing the importance of filings to hear from all sides.

But the PUC's own meeting reinforced that little is normal about Texas electricity right now, even if the grid is no longer stressed by extreme winter weather.

For one thing, staff members are the only people left at the PUC to deliberate with D'Andrea. His two colleagues on the commission resigned in recent weeks, including the former chair.

For another, a firestorm over whether and how to correct billions of dollars of sustained high wholesale electricity prices looms over the state. Lt. Gov. Dan Patrick called Friday for Texas Gov. Greg Abbott, a fellow Republican, to intervene on the pricing question. Abbott responded by saying he supported D'Andrea's position that the PUC chairman can't make the correction.

Then there is the grid's ongoing financial crisis, which as of last week included a more than \$3 billion shortfall in payments in the region managed by the Electric Reliability Council of Texas after high wholesale prices in February. CPS Energy, a municipal utility in San Antonio, announced a suit against ERCOT on Friday over what it called "excessive, illegitimate and illegal prices."

State lawmakers must decide which of the many proposed bills will make it through the current legislative session to help prevent a future electric disaster, in addition to any price corrections they may consider. More than 4 million Texas homes and businesses lacked power for hours or days in February as cold and icy weather caused surging demand and a drop in available generation. ERCOT, the state's main grid operator, directed utilities to conduct controlled outages during the crisis.

Now, other states are watching how Texas responds.

"Texas has always stood for low taxes, small government, deregulation, and this massive power failure has called all of that into question," said Cal Jillson, a professor of political science at Southern Methodist

University in Texas. "And so there's a great scramble to explain that, despite what happened, the model still works."

The PUC did outline last week a road map of actions, from examining weatherization and emergency standards for generation to reviewing ERCOT's forecasting and planning processes to identifying potential wholesale market design changes. The commission also named two people to help bolster oversight of ERCOT and its role as grid operator and market manager.

Efforts to rework the grid remain mired in finger-pointing, though Abbott, Patrick, legislators and the PUC are under pressure to take action.

"These are pretty unusual times, right?" said Cyrus Reed, interim director of the Lone Star Chapter of the Sierra Club.

Top officials spar

There's a Texas gubernatorial election in 2022, and it's possible that Patrick could challenge Abbott in the Republican primary. At the very least, the two state leaders are trading public jabs.

At issue is \$16 billion of excessive charges identified by Potomac Economics, the independent market monitor for ERCOT's wholesale markets. Last week, Potomac said acting on its recommendations could lead to \$5.1 billion of revised transactions, including about \$3.2 billion related to certain real-time energy prices that D'Andrea has declined to change.

The dispute largely revolves around a decision by ERCOT to keep prices at a \$9,000-per-megawatt-hour cap on Feb. 18 and part of Feb. 19 as it sought to stabilize the grid. The market monitor and others said such high prices shouldn't have been mandated at that point. Parties continue to seek repricing for various parts of February, and high prices for ancillary electricity services also have caused concern.

The pricing issue grabbed the spotlight last week, as Patrick grilled D'Andrea during a Texas Senate committee hearing. The lieutenant governor said a pricing change would benefit consumers, though the PUC chairman has suggested it wouldn't be a simple situation. He said changes could create different winners and losers in the power market.

"In light of the PUC Chair's refusal to take any corrective action, despite the fact that he has the authority and the evidence is clear, I am asking Gov. Abbott to intercede on this issue," Patrick said in a Friday statement.

He also said he was asking Abbott "to replace Mr. D'Andrea on the PUC when he fills the other two vacancies there. Mr. D'Andrea's position requires both professional competence and honesty and he demonstrated little of either in the hearings" held Thursday by state lawmakers.

Abbott responded that, as a former justice on the Texas Supreme Court and a former state attorney general, he agreed with D'Andrea about the PUC chairman's inability to take the pricing action the lieutenant governor requested.

"You asked that I intervene to ensure the right thing is done," Abbott wrote to Patrick. "The Governor does not have independent authority to accomplish the goals you seek. The only entity that can authorize the solution you want is the legislature itself. That is why I made this issue an emergency item for the legislature to consider this session."

Abbott said courts ultimately would decide whether there was a billing error or a deliberate decision to take action to save lives.

D'Andrea failed to allay concerns for some state lawmakers and observers during hearings last week, including about his authority and the implications of repricing. The Lower Colorado River Authority, for example, said on Twitter that D'Andrea mischaracterized its situation in suggesting LCRA could go bankrupt over the repricing issue.

Rep. Chris Paddie, the Republican chairman of the House Committee on State Affairs, emphasized some of the points D'Andrea made before lawmakers.

But Rep. Richard Peña Raymond (D) took issue with D'Andrea's refusal to act on pricing corrections that likely would total in the billions of dollars.

"I wonder how the hell we're ever going to find out what it really was," Raymond said Thursday, adding, "We won't. And the little guy [will] pay for it because it'll get stuck into their rates."

Raymond said he thought the governor needed to appoint someone else to hold D'Andrea's position. D'Andrea said ERCOT didn't make a mistake with the elevated pricing issue in question.

"Chairman D'Andrea has the full support of the PUC staff as he works with the Legislature to discover the contributing factors to the ERCOT grid event and the best path forward as defined by the law," Andrew Barlow, a PUC spokesman, said in a statement. The PUC has more than 160 employees, according to Barlow.

Lawsuit and legislation

It remains to be seen how more routine PUC proceedings may be delayed or handled differently, given calls to fast-track fixes after the power outages last month and the lack of a full three-person panel.

"While the winter storm event has certainly driven attention" to key areas discussed Friday, Barlow said, "the PUC team continues its efforts to fulfill its obligations to the entities it regulates across the utility landscape."

Legal filings continue to pile up in the meantime, from bankruptcy to litigation over high prices. There are worries about how continuing costs from the power crisis could filter down to residential customers, as well as the effects financial issues may have on power providers.

CPS Energy said it filed suit against ERCOT over issues such as breach of contract, negligence and violating the Texas Constitution.

"CPS Energy is taking this action to defend its customers. Those who suffered the consequences of ERCOT's failure must not be victimized by one of the largest illegal transfers of wealth in the history of Texas, too," San Antonio Mayor Ron Nirenberg said in a statement. "Ensuring the fair treatment of customers and preventing them from additional harm by outrageous, excessive charges is essential, and we are fighting to achieve that goal."

ERCOT declined to comment on the CPS lawsuit. But Bill Magness, ERCOT's president and CEO, has defended the decision to keep prices high during various days of the grid crisis. ERCOT's board recently voted to fire Magness, giving him a 60-day notice.

"We wanted to be sure that before we ended the emergency that we really feel like we had stabilized the system sufficiently that we could confidently say we are not going back," Magness told state lawmakers last week.

CPS Energy said it would "continue to pay all lawful, legitimate charges for electricity." But the utility, noting that it also supplies energy, said ERCOT had failed to pay what CPS Energy is owed under a market agreement.

Legislation remains another wild card in Texas' response, and lawmakers have until the end of May to settle on solutions. They also could tackle aspects of the power crisis during a potential special session later in the year.

Reed of the Sierra Club said he's not expecting major electricity market reforms during the current session. He suggested there could be legislation passed that tackles weatherization, coordination between agencies and mapping of critical infrastructure.

"I doubt we'll see huge changes in the structure of the PUC or ERCOT or our market," Reed said. "What we're trying to do, honestly, is convince the Legislature and the PUC to not forget the demand side."

That means calling for more focus on energy efficiency and demand response that lets residential and small commercial customers get paid to reduce their power use during critical times. Reed also noted the potential for distributed generation — whether renewables, storage or natural gas — to act as additional resources for the region.

There also may be financing changes in how the gas and electric systems are weatherized. For example, there could be a push to use low-interest loans or bonds to help energy companies shield their assets from extreme weather or recover costs from catastrophic events.

In the meantime, D'Andrea remains the face of the PUC, which eventually would help implement reforms to Texas electricity — whether he's still there or not. It's not clear when the governor might name new PUC members, who are subject to state Senate confirmation.

"I think he's doing the best he can in a difficult situation," Reed said of D'Andrea. "But clearly ... we'd all benefit from some additional commissioners."

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LOOMING CRISIS

Wastewater in West Monroe is repurposed from algae-infested ponds into clean water for use at a nearby paper mill. (Austin R. Ramsey / IRW)

Lawmakers sidestep groundwater concerns — for decades

By Austin R. Ramsey/IRW and Tegan Wendland/WWNO

Published March 12, 2021

Categories Health Oversight Water quality

Share this story

Reporters Austin R. Ramsey and Tegan Wendland traveled across the state interviewing scientists, farmers, industry leaders and politicians and examining more than 100 reports to explain how overuse of the state's valuable resource — compounded by the effects of climate change — puts Louisiana on the brink of a groundwater crisis. Some experts say that if the state doesn't address this issue, Louisiana could face mass water shortages Western states have long grappled with.

This is Part 5 of a five-part series. |
Part 1 gives readers and listeners an overview of why the state's lack of a water-management plan has led to concerns.
Part 2 examines how Louisiana's biggest source of groundwater is losing water fastest.
Part 3 examines The Southern Hills aquifer, which is being depleted faster than it is being replenished.
Part 4 explores the role climate change is playing in Louisiana's shrinking groundwater supply.

LISTEN TO THE STORY:

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BATON ROUGE La. — State Rep. Denise Marcelle was born and raised in Baton Rouge.

Like many residents, she’s always appreciated the crystal clear water here — drawn from deep in the Southern Hills Aquifer System.

“We have some of the best water in the world,” she said.

But for years, Marcelle, who is a Democrat, has warned of a looming crisis in the aquifer. Energy companies and big industry are drawing vast amounts of water. And the withdrawals are allowing salt water to move in, threatening the main source of drinking water for a growing population of more than half a million.

Marcelle has been a state legislator since 2016, and her first piece of legislation directly tackled the city’s imminent water crisis.

“Why not do what’s right for people?” she asked.

Her legislation died in committee. So she tried again the next year and the next and the next and the next.

But all five of her bills died in the House Natural Resources and Environment Committee.

More than a quarter of members of that House committee have direct financial ties to major

groundwater users, according to a database the IRW and WWNO/WRKF created. It uses financial disclosure statements and campaign finance reports for the 25 lawmakers now on the House Natural Resources and Environment Committee and the Senate's Environmental Quality



State Rep. Denise Marcelle.

Committee. All but three of the committee members have recently accepted money from major groundwater users.

“I found out that there are certain issues, and groundwater is one of them, that legislators refuse to touch because of large industry here,” Marcelle said. “Those committees are stacked so that you can’t get anything out of them that a certain group of people don’t want out of them.”

The wrong kind of water

Louisiana has lots of water. But most of it is surface water — in rivers, lakes, bayous and from rain. It’s costly to treat to make it safe to drink, so most Louisianans and many

industries, including agriculture, use groundwater instead.

At least three of the state's 11 major aquifers are being drained faster than they can be replenished. The IRW and WWNO/WRKF investigation reveals that four are in danger of saltwater intrusion, a result of overdrawing. Hydrologists say that once that happens, an aquifer can be ruined.

[We analyzed U.S. Geological Survey Groundwater Data for Louisiana to determine the extent to which water levels have declined.]

State leaders have been aware of the problem for decades.

The Legislature has commissioned at least 12 taxpayer-funded studies since the early 1900s, and nearly all came to the same conclusion: The state should create a comprehensive water management plan and gather more data to inform future policies.

But no plan has been passed.

Many of the House and Senate committee members are farmers who use groundwater to irrigate their crops. Others work for oil and gas contractors who rely heavily on groundwater for industrial use.

Republican House Natural Resources and Environment Committee Chairman Jean-Paul Coussan did not respond to multiple requests for comment. After reading the first part of this series, Republican Senate Environmental Quality Committee Chairman Eddie Lambert said he was concerned about the issue.

“I may be looking at this,” he said. “We need to do a comprehensive study.”

“Pristine drinking water should not be used by industry or agriculture,” Lambert added.

Democratic Gov. John Bel Edwards declined to comment.

The state’s four largest private-interest groups gave more than \$170,000 in campaign contributions to committee members in the five years since Marcelle began introducing groundwater bills.

In 2019, Marcelle tried a different tact: She asked the Louisiana Legislative Auditor’s Office to step in.

The auditor’s office investigated the Capital Area Ground Water Conservation Commission, which is supposed to oversee the Southern Hills aquifer in the Baton Rouge area.

The findings were scathing. The report highlighted conflicts of interest and rampant mismanagement. It found that 50 years after the commission was formed, salt water continues to creep in. Some groundwater levels decreased 50 feet during that period — a massive drop given that the average depth to the water table is 41 feet, according to USGS water level data.

“The commission does not effectively regulate water withdrawals from the aquifer to reduce and manage saltwater encroachment and ensure the sustainability of fresh groundwater for the future,” the report said.

It also found that two major companies use more than a quarter of the region’s water. ExxonMobil’s Baton Rouge refinery, one of the largest in the world, and a Georgia Pacific plant that makes paper towels and toilet paper — used 55 billion gallons in 2019.

The Graphic Packaging International paper mill in West Monroe has significantly cut down on its groundwater use, drawing about 10 million gallons of water from the river, 5 million gallons from the aquifer and another 5 million gallons from the Sparta Reuse Facility, thanks to a plan implemented years ago to save the aquifer. (Austin R. Ramsey / IRW)

Gina Brown, the auditor who co-wrote that report, said the commission needs to limit industrial water use.

“We don't have an abundance of water,” she said. “The Southern Hills aquifer needs to be regulated so that it can continue to provide drinking water for the citizens for years to come.”

A year later, Brown and her team at the Legislative Auditor's Office opened a new investigation into groundwater resource management statewide.

Their findings called for the Legislature to create a groundwater resource management

plan, just as those earlier reports recommended. It also outlined a series of corrective measures to reverse groundwater overuse — all of which would require action by the Legislature.

Whose job is this?

Technically, Louisiana's Department of Natural Resources oversees groundwater. But the Legislature has given the DNR only limited authority and few enforcement powers. The agency's Office of Conservation can flag "areas of groundwater concern," but the law requires water users themselves to request the designation.

In 2005 — at the request of the Sparta Ground Water Conservation Commission — the DNR flagged the Sparta Aquifer in northwest Louisiana as being at-risk because of overpumping, largely by industry.

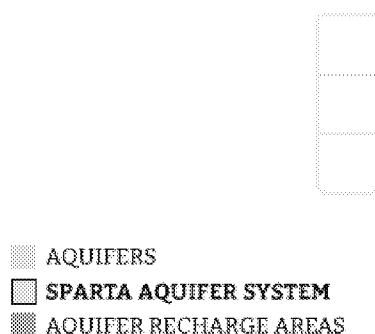
But the Sparta commission can't limit pumping in the aquifer and the designation did little to curb industry overuse.

AQUIFERS UNDER THREAT

Four of the largest aquifers in Louisiana are losing water levels or facing the possibility of

saltwater intrusion. The water table in each of these underground water storage reservoirs has been impacted by over- pumping by industries and agriculture. Over-pumping occurs when water that seeps underground from rain or floods — in a so-called recharge area — is lower than the amount of water being drawn out of the aquifer for human use.

IRW



It called for an “aggressive water conservation education program” and for monthly reports showing water level measurements “when available.” It encouraged water users to find other water sources, but didn’t limit the amount they could withdraw from the aquifer.

The DNR took a similarly weak response in 2011 when a statewide drought caused water levels to drop substantially in the endangered Carrizo-Wilcox Aquifer, which serves millions of people in Louisiana and Texas. The emergency orders called only for a reduction

in groundwater use to the “maximum extent possible.”

“At the end of the day, there’s only so much we have the authority to do,” DNR Communications Director Patrick Courreges told the IRW and WWNO/WRKF. “This is stuff the Legislature needs to look at, and that’s what we are kind of running into. Folks that I work with, we feel like we’re right up against the edge of our regulatory authority.”

Some kind of plan

Marcelle supports creating a statewide water management plan. She also wants the state to update its antiquated water code, which makes groundwater a free-for-all among users.

Louisiana is one of just 17 states that don’t give preference to the public in the allocation of groundwater resources.

In 2015, the Legislature took a step in that direction when it authorized the Louisiana State Law Institute to study the water code and make recommendations to update it. But other than filing annual reports, the institute hasn’t made any formal recommendations.

Committee chair Mark Davis has been pushing for a comprehensive water code for more than

a decade. He directs Tulane University's Institute on Water Resources Law & Policy and is an expert in water resource management.

“The more we saw, the more we realized that people were hoping water would be managed smartly for great public benefit,” he said. “We just couldn't find that it was anyone's job to do it.”

The committee's work, Davis said, has been slowed by major storms and the COVID-19 pandemic.

“In short, this is like pulling a stagecoach with a team of horses,” he said. “The stage does not move at the pace of the fastest horse.”

Until the groundwater law is updated, Davis said Louisiana's water remains up for grabs. “Individuals and fate” are controlling the state's water for now, he said. “Whether you do the best job or the worst job, someone should be accountable for the job.”

A local solution

Without a statewide groundwater management plan — or laws that give regulators more teeth — the task of protecting water has been left to local governments.

One of the most farsighted efforts took place nearly 20 years ago in the northern Louisiana town of West Monroe.

Its 12,000 residents rely on the Sparta Aquifer for water. So does the major employer in town, a paper mill that's the single largest groundwater user in Louisiana's portion of the aquifer. Graphic Packaging International produces beverage containers for companies such as Capri Sun and has invested hundreds of millions of dollars in the local economy.

The Sparta is one of the state's most heavily used aquifers; 15 parishes in northeast Louisiana rely on it for fresh water, and drinking water remains the aquifer's biggest demand. But industrial wells consume greater individual quantities of water at faster rates, drawing down the aquifer in hyper-local areas. A 1994 U.S. Geological Survey analysis found that the Sparta was being overdrawn by nearly 18 million gallons a day — and that Graphic Packaging was responsible for nearly a quarter of the daily excess in West Monroe. So much water had been withdrawn that three colossal underground cones of depression have formed in northern Louisiana and southern Arkansas. Groundwater levels near these depressions had plummeted on average more than 1 foot a year for the last 20 years, USGS experts said.

In 1999, the Legislature established the Sparta Groundwater Conservation District to protect the aquifer. But it didn't give the district any regulatory power to tell the paper mill to stop using so much water.

So West Monroe took action.

Terry Emory, West Monroe's environmental quality manager, said the town had to do something to save its seven drinking water wells from running dry or being ruined by salt water sucked into the aquifer by overpumping.

"If they continued to draw all that water, we would lose our drinking water," Emory said.

"They were using 10 million gallons a day out of the river [and] 10 million gallons a day out of the aquifer."

The city decided to expand its wastewater treatment plant and offer the treated water to the mill. They called it the Sparta Reuse Facility after the aquifer it was meant to save.

Emory said it was a challenge to persuade residents the project was needed.

“We took care of the problem before they had a problem,” Emory said. “If we had waited until it’s too late, then everybody would have been in trouble.”

West Monroe Environmental Quality Manager Terry Emory stands in front of a multi-faceted wastewater treatment plant that ships clean water to a nearby paper mill. That partnership has cut down on industrial overuse of the region's precious groundwater resources. (Austin R. Ramsey / IRW)

The project was funded by a combination of state and federal revolving loans, state infrastructure capital outlay and a combined

\$700,000 from the city and sewer district. Graphic Packaging paid only for the piping to connect to the water the new treatment plant was producing.

“This whole entire area is very economically dependent on that paper mill, so it was really important for us to keep them here,” Emory said. “The agreement with them was that if we could produce water that met all EPA primary and secondary drinking water standards, that they would accept the water. Gallon-for-gallon, the amount of water that we could send them, they would not draw out of wells, and they have held to that agreement.”

Graphic Packaging declined to comment for this story but confirmed information about the treatment plant.

Today, the mill draws about 10 million gallons of water from the river, 5 million gallons from the aquifer and another 5 million gallons from the Sparta Reuse Facility. Officials hope to expand the plant’s capacity so it can draw down the mill’s reliance on groundwater even more.

The aquifer is showing signs of recovery.

In conjunction with another water supply project in Union County, Arkansas, major industries have reduced groundwater

consumption in the aquifer by more than 10 million gallons a day, according to USGS estimates.

“At the center of the depression, they have seen over a 100-foot rise in their water wells,” said Lindsay Goudey, the Sparta Groundwater Conservation Commission’s education coordinator. “And that just stands out like a ripple effect. So we benefit from Arkansas and their conservation efforts. Likewise, they would benefit from our conservation efforts.”

The bigger problem, Goudey said, is lack of data because it’s hard to protect the water if you don’t know how much there is.

“If you don’t know what you’re aiming at, you’ll miss it every time,” Goudey said. “And we don’t know what we’re aiming at.”

As the region’s population grows, the need for better data is greater than ever, she said. Of the 160,000 recent well measurements the IRW and WWNO/WRKF analyzed in Louisiana, just 9,834 were in the Sparta Aquifer, compared with 46,000 in the Chicot and Southern Hills aquifer systems. USGS estimates are released every five years in Louisiana; the latest report cites 2015 data.

Marcelle, the legislator who spearheaded efforts at fixing Louisiana’s groundwater woes,

is discouraged by the lack of progress on compiling more robust data and developing a statewide management plan.

But she said she would keep reintroducing her bills and working to resolve the state's precarious water situation.

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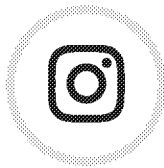


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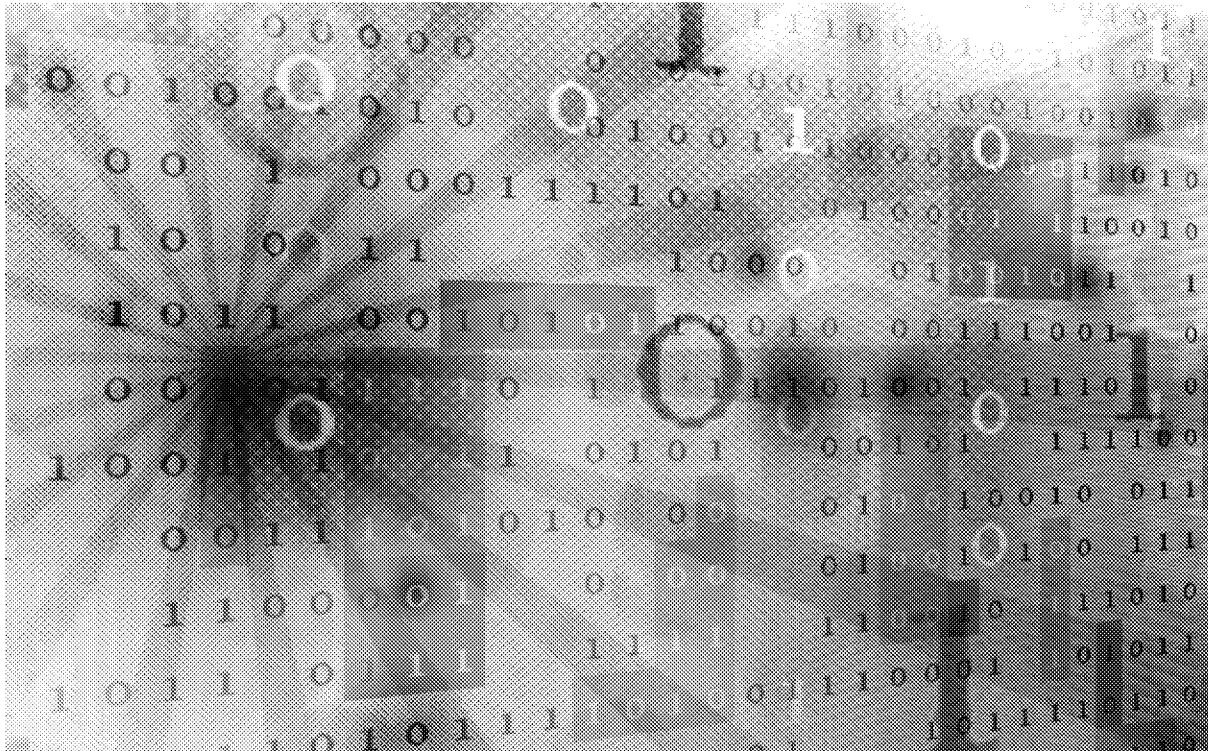
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The Top Three Energy Stories For 2021: Texas, California, And Oil



Jude Clemente Contributor ⓘ ⊕

Energy

I cover oil, gas, power, LNG markets, linking to human development.



WASHINGTON, DC - MARCH 03: President Joe Biden holds a meeting on cancer with Vice President Kamala ... [+] GETTY IMAGES

Texas

Let me start with the elephant in the room: the recent Texas energy crisis.

To be sure, ALL energy sources had their problems.

With natural gas accounting for 45-50% of the state's actual power generation, pipelines froze and Texas' gas production dropped 45% during the week.

This left many gas plants unable to get fuel and forced Governor Abbott to halt exports out of the state.

But we must realize - and other states and even countries that import gas from Texas should indeed be thankful for - that Texas has exhibited remarkable restraint when it comes to relying on more gas.

For example, even though Texas' marketed gas production since 2010 has soared nearly 40% to 25.3 Bcf/d, gas power capacity has stayed flat (Figure).

Therefore, over that time, a wind and solar build-out has lowered gas' share of Texas' power capacity from 62% to 53% today.

In other words, despite being the largest gas producing state, gas' share of power generation in Texas is only on par with import-dependent and green-tinted California.

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For reference, non-gas producers Florida and Massachusetts lean on gas for a whopping 75-80% of their power generation.

Strident wind defenders in the media and academia, who suspiciously have seemed to take personal offense at the suggestion that renewables in Texas had problems too, demand a wakeup call.

Not the only reason for the crisis, of course, but wind turbines surely did freeze in Texas.

But the bigger and undeniable problem is the low expectations that are assumed for them, showing renewables as much more “supplemental” than “alternative.”

For example, ERCOT, the independent power grid operator that covers 90% of Texas, has ~25,000 megawatts (MW) of wind power capacity but goes into winter expecting that only 6,000 MW of that will be available for peak demand times.

And it is good that some 4,000 MW of Texas’ wind did deliver at times for ERCOT during the crisis.

But still, the defense for wind power is perplexing, going something like this: “you can’t blame wind because 75% of it wasn’t expected to be available anyways.”

I have noticed on Twitter that nuclear advocates especially have had a field day with this line of defense for wind for what happened in Texas (you cannot blame them, nuclear leads with a staggering 94% capacity factor).

And lest we forget: it is not just a winter cold problem for wind power in Texas.

Going back to the Texas heat wave in September 2019, only 5% of wind capacity was available when needed most:

- “As a heat wave continued to plague the Electric Reliability Council of Texas with triple-digit high temperatures Friday afternoon, output from ERCOT’s 22-GW [22,000 MW] wind fleet plunged to less than 1.2 GW [1,200 MW], resulting in real-time prices soaring into quadruple digits for almost two hours,” S&P Global, September 6, 2019

The real-life limitations of wind power experienced in Texas are extremely telling and a warning for other states (and even countries) that “only renewables” is not a serious energy position.

Situated conveniently in the very windy Great Plains, Texas is naturally our wind leader, generating 93 TWh in 2020, or almost 30% of the national total.

Now easily the main source at ~40% of U.S. electricity (coal and nuclear are each second at ~20%), natural gas will remain integral for grid reliability.

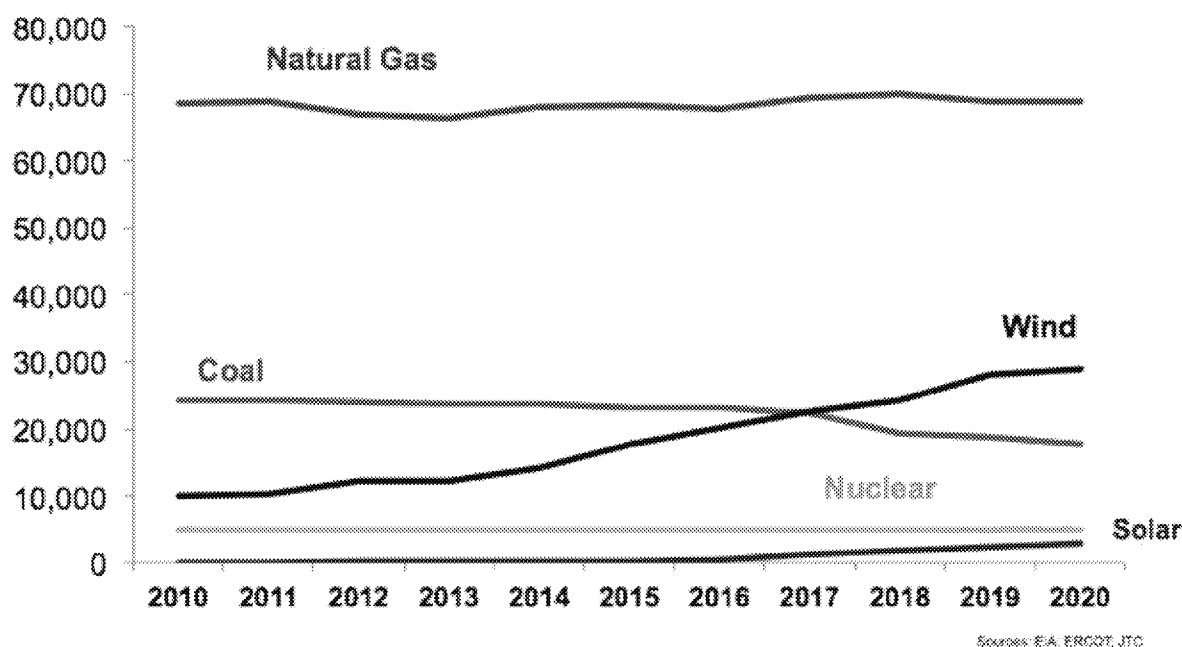
As wind and solar grow from being 13% of U.S. generation this year to 30-35% by 2030 in an optimistic scenario (a pretty wide consensus at the recent CERAWeek), the value of gas’ flexibility to meet their natural intermittency will grow.

We now have ~530,000 MW of gas generation capacity, for instance, compared to just ~1,500 MW of utility-scale battery energy storage capacity (most needing recharged after just four hours of usage).



Texas Power Generation Capacity

Megawatts



In Texas, gas power capacity has been remarkably flat over the past decade, while that of wind and ...

[+] EIA; JTC

California as “The Model”

Indeed, speaking of states naturally gifted with more renewable energy resources than others (in this case solar), the Biden administration is once again looking at California as the model.

We have seen this movie before.

To me, one of the big mistakes the Obama administration’s EPA made under Gina McCarthy (now Climate Advisor to President Biden) was to push undeniably unique California as the “clean energy” template for others to follow (e.g., the collapse of the Clean Power Plan).

Despite having much higher prices (Figure), Californians do enjoy generally lower electricity bills, stemming from the fact that the state uses about half the electricity that other states do, at ~7,000 kWh/capita/year.

But while the California Public Utilities Commission and environmental groups insist on crediting the state's many energy efficiency measures for this, regression analyzes have proven that unique factors within the Golden State are really the reason Californians use less electricity, namely mild weather and more people per household.

As an everyday example, only 55-60% of homes in California utilize central air conditioning, compared to 95-98% in hot Texas or Florida, for instance.

Mild California, for instance, has just a third of the cooling degree days that the U.S. southeast has.

In short, California enjoys a very unique situation that inherently allows its residents to need LESS electricity (FYI: I lived in San Diego for eight years and experienced all of this first hand).

This is all explained unemotionally by Dr. Arik Levinson of Georgetown University: "California energy efficiency: Lessons for the rest of the world, or not."

In fact, this low need for electricity has allowed California to install very questionable electricity policies that surge prices and threaten grid reliability but can still mostly avoid the electricity crises like the state saw in August and September of last year and the massive one back in 2000-2001.

The movie continues.

In a year, Texas generates ~480 TWh of electricity, compared to ~205 TWh for California. But California imports an additional 75-100 TWh.

Thus, California is easily the highest power importing state, at ~30% of its total needs.

This reliance on neighbors for energy to function really hammered California badly during last summer's blackouts when supplying states

confronted the same heat wave and needed to keep their own electricity.

Lightly headlined by the *The San Diego Union-Tribune*: “A lesson from the blackouts: California may be too reliant on out-of-state energy imports” and something I warned about years ago: “California's Growing Imported Electricity Problem.”

Ask yourself: what would happen if the other U.S. states simply relied on huge power imports from other states like California does? (ditto for oil and gas).

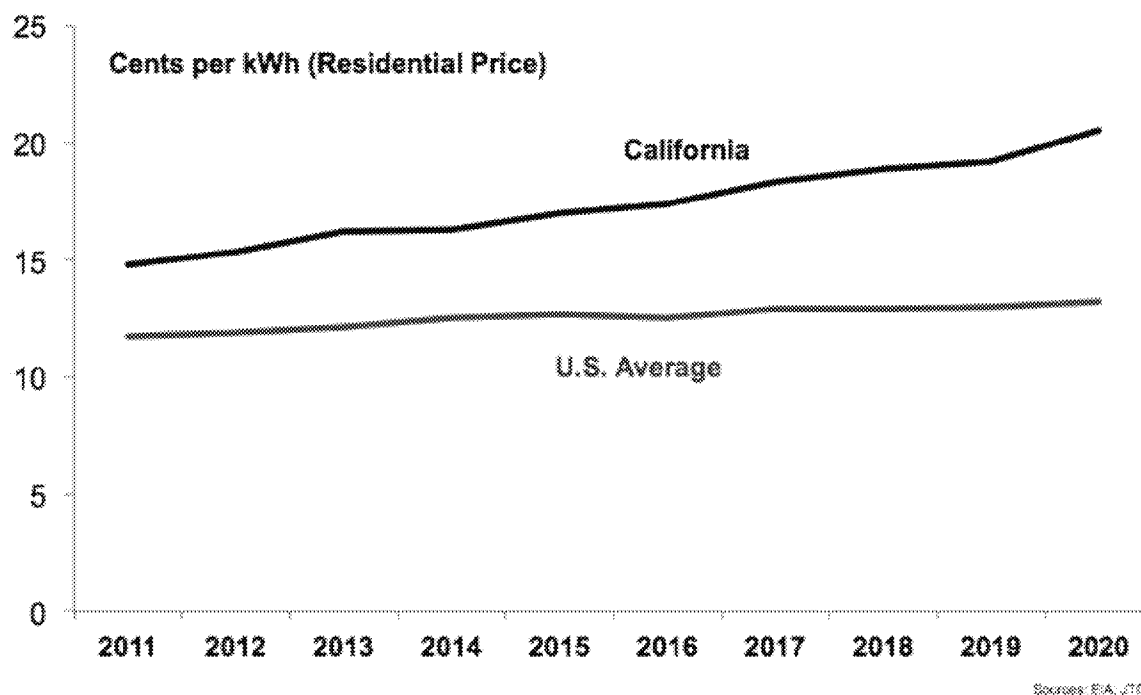
Beyond just electricity, natural gas and gasoline prices in California are 40-60% higher than the national average.

California's energy policies are actually a cautionary tale.

Experts warn that the state's high energy prices hurt people of color most and could actually turn public sentiment against the transition to electrification and more wind and solar development.



California's Electricity Prices Are 55% Higher Than the U.S. Average



California's electricity prices have been rising way too fast. EIA; JTC

Oil Comeback

Thanks to the vaccine rollout, stimulus packages, extra 1 million b/d production cut from Saudi Arabia, weaker dollar, etc. oil prices have been on the rise.

Both WTI and Brent crude have hit above \$65/barrel as of late, widely expected to sail into the \$70-75 range in high demand summer ("the travel bounce back is coming").

With no material substitute, the reports of the death of the world's most vital fuel have been greatly exaggerated: in a V-shaped recovery, "Oil stocks are destroying clean energy in 2021."

The U.S. shale oil industry, however, must be sure to not overproduce as prices increase.

Our crude production has been hovering around 11.0 million b/d for months, down from the record highs of 13.3 million b/d seen in late-2019.

In particular, the smaller independents needing cash are under pressure to stay disciplined with CAPEX spending while strengthening balance sheets.

If prices average ~\$55, it should be a solid rebound year for the U.S. oil industry.

Wood Mac reports that the focus to cut costs last year lowered breakeven prices to ~\$38, down from ~\$55 pre-Covid.

Higher oil prices have the industry ready for a recovery in free cash flow, maybe even topping \$140 billion in 2021, the most since 2006.

Indeed, in our goal to lower greenhouse gas emissions to fight climate change, a healthy U.S. oil industry is a necessity.

Many journalists, academics, and climate suit-happy governments want us to go after “Big Oil,” i.e., our own western international oil companies (IOCs), such as BP, Chevron, Total, ExxonMobil, Royal Dutch Shell, and more generally including the larger independents.

But market realities dictate that these publicly traded companies are anything but “Big Oil,” especially as they evolve more into the low-carbon gas, renewables, and net-zero spaces (Figure).

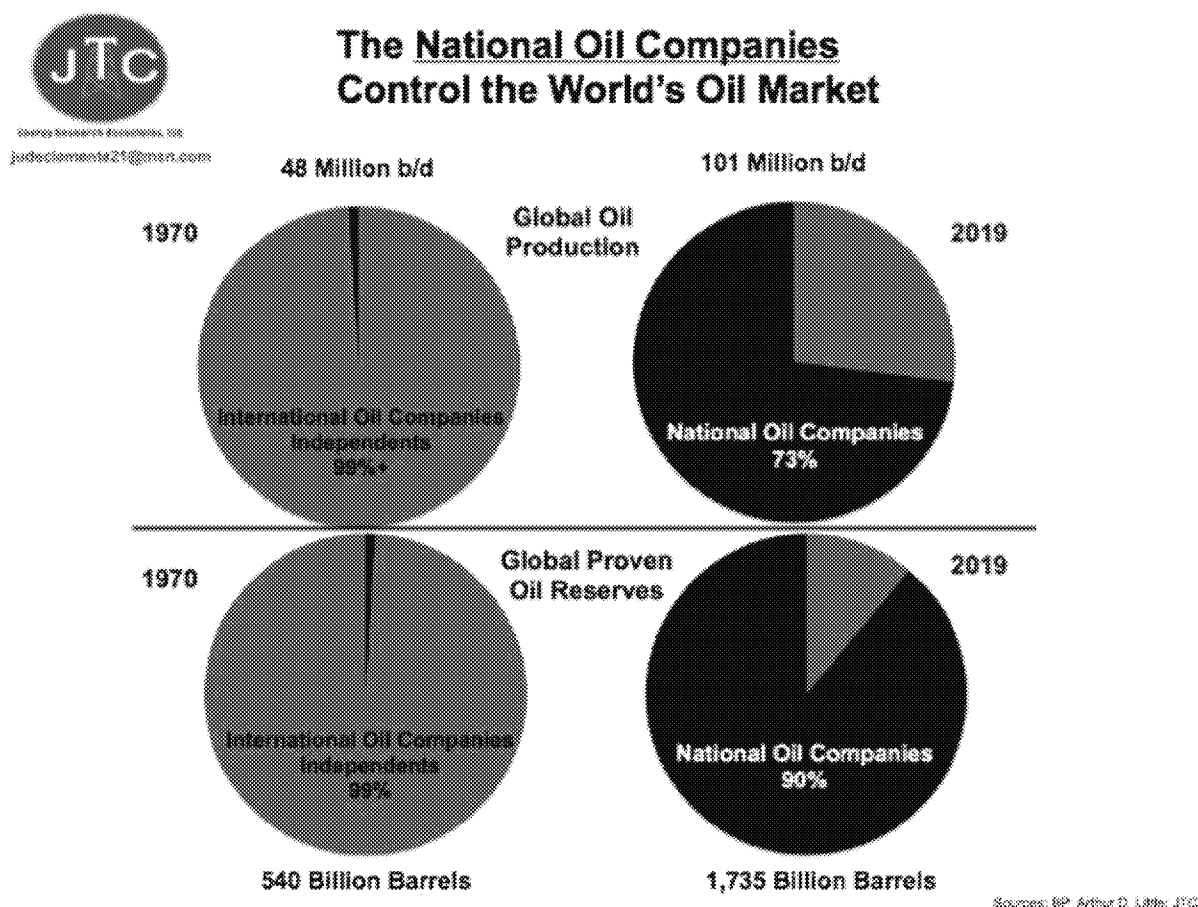
Not just as a critical employer, mutual funds mainstay, taxpayer, and thin line between domestic supply and the requirement for imports to meet our ~20 million b/d consumption level, there is an obvious need to support our oil companies.

In reality of course, “Big Oil” is their competition: the national oil companies that have endless backing from their own governments.

Think OPEC, Russia's national champions, and China's state-owned enterprises.

As it turns out, "Big Oil" is those that thrive on monopolistic power, not playing by international norms, few environmental regulations, and manipulating the global market to advance their own governments' political interests.

This also explains why the environmental, social, and corporate governance (ESG) movement must proceed extremely cautiously in pushing the IOCs and independents, at risk of just handing the global oil market to such rogue players.



The National Oil Companies control the world's oil market, not the "Big Oil" continually referenced ...

[+] BP; ARTHUR D. LITTLE; JTC



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